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16 Attorneys for Defendants

17 GlaxoSmithKline LLC (formerly known as

18 SmithKline Beecham Corporation d/b/a

19 GlaxoSmithKline) and McKesson Corporation

20 UNITED STATES DISTRICT COURT

21 NORTHERN DISTRICT OF CALIFORNIA

22 SHUKRY MESSIH, et al.,

23 Case No. 3:13-cv-03155-SI

24 Plaintiffs,

25 vs.

26 MCKESSON CORPORATION, et al.,

27 **JOINT STIPULATION AND [PROPOSED]**  
**ORDER EXTENDING TIME FOR**  
**DEFENDANTS TO ANSWER**  
**COMPLAINT**

28 Defendants.

Honorable Susan Illston

**JOINT STIPULATION AND [PROPOSED] ORDER**

Plaintiffs in this action, Defendant GlaxoSmithKline LLC, (f/k/a SmithKline Beecham Corporation d/b/a GlaxoSmithKline) (“GSK”) and Defendant McKesson Corporation (“McKesson”), hereby submit, through their undersigned counsel of record, the following Stipulation and accompanying [Proposed] Order.

WHEREAS, Pursuant to Federal Rule of Civil Procedure 81(c)(2), Defendants GSK, and McKesson (collectively, “Defendants”) have not yet answered the Plaintiffs’ Complaint prior to removal of this case from San Francisco Superior Court on July 9, 2013. Defendants have 21 days after “receiving--through service or otherwise--a copy of the initial pleading stating the claim for relief” and therefore have 21 days to Answer Plaintiffs’ Complaint. McKesson was served with Plaintiffs’ Complaint on July 1, 2013. GSK has not been served with Plaintiffs’ Complaint. GSK intends to file a Motion to Stay. Plaintiffs intend to file a Motion to Remand. (*See* Declaration of Steven J. Boranian (“Boranian Decl.”) in Support of Joint Stipulation Extending Defendants’ time to Answer Complaint ¶ 5)

WHEREAS, the parties, having met and conferred, pursuant to Civil L.R 6-3, jointly stipulate to and respectfully request that this Court extend the time for Defendants to Answer the Complaint until 30 days after entry of an order on Plaintiffs' Motion to Remand. (*See* Boranian Decl. ¶ 6)

WHEREAS, the parties agree that good cause exists for the requested extension of time in order to serve the interests of judicial economy, efficiency, and fairness. This action will either be remanded to the Superior Court of San Francisco or transferred to the Avandia MDL. Therefore, in order to conserve the resources of the Court and the parties, all parties agree that Defendants' Answers should ultimately be filed in the San Francisco Superior Court or in the Avandia MDL. (See Boranian Decl. ¶ 7)

WHEREAS, no party to this case has previously requested any time modifications in this action. (*See* Boranian Decl. ¶ 8)

By the filing of this Joint Stipulation and Proposed Order, the Plaintiffs do not concede, and

1 Defendant will not argue, that the federal courts have subject matter jurisdiction over this action  
2 because of the submission of this Joint Stipulation and Proposed Order.

3 WHEREAS, the requested relief would not cause any undue hardship, delay, or prejudice to  
4 either party or the Court and is warranted by the circumstances in this case. (See Boranian Decl. ¶ 9)

5  
6 DATED: July 18, 2013

7 REED SMITH LLP  
8 Michael K. Brown  
9 Sonja S. Weissman  
10 Steven J. Boranian

11 By: /s/ Steven J. Boranian  
12 Steven J. Boranian  
13 Attorneys for Defendants  
14 GlaxoSmithKline LLC (formerly known as  
15 SmithKline Beecham Corporation d/b/a  
16 GlaxoSmithKline) and McKesson Corporation

17 DATED: July 18, 2013

18 NAPOLI BERN RIPKA SHOLNIK &  
19 ASSOCIATES LLP

20 By: /s/ Marissa Langhoff  
21 Marissa Langhoff  
22 Hunter J. Shkolnik  
23 Attorneys for Plaintiffs

1 **EILER'S ATTESTATION**

2 Pursuant to Local Rule 5-1(i)(3), the undersigned attests that all signatories have concurred  
3 in the filing of this Joint Stipulation And [Proposed] Order Extending Time for Defendants to  
4 Answer Plaintiffs' Complaint.

5  
6 DATED: July 18, 2013

7 REED SMITH LLP  
8 Michael K. Brown  
9 Sonja S. Weissman  
10 Steven J. Boranian

11 By: /s/ Steven J. Boranian  
12 Steven J. Boranian  
13 Attorneys for Defendants  
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17 REED SMITH LLP  
18 A limited liability partnership formed in the State of Delaware  
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## **[PROPOSED] ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED

DATED: 7/19/13

Susan Illston

Honorable Susan Illston

**REED SMITH LLP**  
A limited liability partnership formed in the State of Delaware

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15 NORTHERN DISTRICT OF CALIFORNIA

16 SHUKRY MESSIH, et al.,

17 Case No. 3:13-cv-03155-SI

18 Plaintiffs,

19 vs.  
20 MCKESSON CORPORATION, et al.,  
21 Defendants.  
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**DECLARATION OF STEVEN J.  
BORANIAN IN SUPPORT OF JOINT  
STIPULATION AND [PROPOSED]  
ORDER EXTENDING TIME FOR  
DEFENDANTS TO ANSWER  
COMPLAINT**

Honorable Susan Illston

1 I, Steven J. Boranian, declare:

2 1. I am an attorney duly admitted to practice law in the State of California and a partner  
3 at Reed Smith LLP, counsel for defendant GlaxoSmithKline LLC (“GSK”) and McKesson  
4 Corporation (“McKesson”). I have personal knowledge of the facts set forth in this declaration and  
5 for those matters for which I do not have personal knowledge, I am informed and believe they are  
6 true. I could and would testify to these matters if called as a witness.

7 2. I submit this Declaration in support of a joint request to extend the time for  
8 Defendants to Answer the Complaint until 30 days after entry of an order on a Motion to Remand,  
9 this action which has been removed by GSK into federal court.

10 3. Pursuant to Rule 7.5(c) of the Rules of Procedure of the Judicial Panel on  
11 Multidistrict Litigation (“R.P.J.P.M.D.L.”), GSK provided notice to the JPML of the pendency of  
12 this “tag-along” action on July 16, 2013, so that the process to transfer to the Avandia MDL might  
13 occur

14 4. GSK anticipates that the JPML will soon issue a Conditional Transfer Order,  
15 conditionally transferring this case to the Avandia MDL.

16 5. Prior to GSK’s removal of this action on July 9, 2013, GSK had not been served with  
17 the Complaint. Defendant McKesson was served with the Complaint on July 1, 2013. GSK and  
18 McKesson (collectively, “Defendants”) have not yet answered the Complaint. GSK intends to file a  
19 Motion to Stay. Plaintiffs intend to file a Motion to Remand.

20 6. All parties, having met and conferred, pursuant to Civil L.R 6-3, jointly stipulate to  
21 and respectfully request that this Court extend the time for Defendants to Answer the Complaint  
22 until 30 days after entry of an order on Plaintiffs’ Motion to Remand.

23 7. The parties agree that good cause exists for the requested extension of time in order to  
24 serve the interests of judicial economy, efficiency, and fairness. GSK anticipates that the JPML will  
25 soon issue a Conditional Transfer Order, conditionally transferring this case to the Avandia MDL,  
26 which will be timely opposed by Plaintiffs. Therefore this action will either be remanded to the  
27 Superior Court of San Francisco or transferred to the Avandia MDL. Therefore, in order to conserve  
28

1 the resources of the Court and the parties, all parties agree that the Defendants' Answers should  
2 ultimately be filed in the San Francisco Superior Court or the Avandia MDL.

3 8. No party to this case has previously requested any time modifications in this action.

4 9. Therefore, because this action is unlikely to remain before this Court, the requested  
5 relief would not cause any undue hardship, delay, or prejudice to either party or the Court and is  
6 warranted by the circumstances in this case.

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8 I declare under penalty of perjury under the laws of the United States that the foregoing is  
9 true and correct.

10 DATED: July 18, 2013

11 /s/ Steven J. Boranian  
12 Steven J. Boranian

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